

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1157 - SB 1266

April 6, 2015

SUMMARY OF ORIGINAL BILL: Adds new definitions and makes changes to certification requirements for pain management clinics under the *Pain Management Clinic Act*. Defines a pain management specialist as a licensed physician who holds continuing medical education (CME) and certification from the American Board of Medical Specialists (ABMS) or the American Osteopathic Association (AOA) or hold diplomate status by July 1, 2016, from the American Board of Pain Medicine (ABPM). Any exceptions to a pain management specialist certification must be approved by the appropriate regulatory board for pain management specialists. Current pain management specialists who are qualified to take the ABPM exam may continue to practice as a pain management specialist until July 1, 2016, when diplomate status will be required.

Defines a certificate holder as a licensed medical doctor, osteopathic physician, advanced practice nurse, or physician assistant who practices in this state with an unrestricted, unencumbered license. Requires a pain management clinics be owned by at least one certificate holder. Certificates can only be awarded to a qualified certificate holder. A certificate must show proof that the clinic has a medical director who is a certified pain management specialist as defined by the ABMS; or who meets the requirement of the ABPM and is qualified to take the ABPM examination. A medical director can continue to practice as a pain management specialist until July 1, 2016, when diplomate status will be required. Defines a medical director as an individual who is a licensed physician; provides oversight relative to operations of a pain management clinic; and is a pain management specialist.

Increases, from 20 percent to 50 percent, the required percentage of weekly operating hours that a medical director of a pain management clinic must be on site at the clinic. This legislation has an effective date of July 1, 2015.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENTS (005362, 005789): Deletes all language after the enacting clause. Adds new definitions and makes changes to certification requirements for pain management clinics under the *Pain Management Clinic Act*. Defines a pain management specialist as a licensed physician who holds the required continuing medical education (CME) and subspecialty certification in pain medicine as accredited by the Accreditation Council for Graduate Medical Education (ACGME) through either the American Board of Medical Specialists (ABMS) or the American Osteopathic Association (AOA) or holds diplomate status by July 1, 2016, from the American Board of Pain Medicine (ABPM). Qualifies as pain

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management specialists those licensed physicians who are board certified by the American Board of Interventional Pain Physicians (ABIPP) by passing exam-1, and hold the required CME hours or a licensed physician who has an active pain management practice in a clinic accredited in outpatient disciplinary pain rehabilitation by the Commission on Accreditation of Rehabilitation Facilities (CARF) or any successor organization. Current pain management specialists who are qualified to take the ABPM exam may continue to practice as a pain management specialist until July 1, 2016, when diplomate status will be required. Any exceptions to a pain management specialist certification must be approved by the appropriate regulatory board for pain management specialists.

Defines a medical director as an individual who is a licensed medical doctor or osteopathic physician; provides oversight relative to operations of a pain management clinic, including acting as the supervising physician for the advanced practice nurses and physician assistants operating at the clinic; and is a pain management specialist. Requires any licensed physician serving as a medical director at a pain management clinic to be a pain management specialist. Certificates can only be awarded to a qualified certificate holder. Defines a certificate holder as a licensed medical doctor, osteopathic physician, advanced practice nurse, or physician assistant who practices in this state with an unrestricted, unencumbered license. Requires any person with an ownership interest in a pain management clinic be eligible to be a certificate holder.

Requires, by January 1, 2017, the Commissioner of the Department of Health (DOH) to develop recommended treatment guidelines for prescribing opioids that can be used by prescribers in this state as a guide for caring for patients. Requires, by January 1, 2017, the Commissioner to develop recommended pain clinic standards for the operation of a pain management clinic that can be used by certified pain clinics in this state as a guide for operating a pain clinic. The Commissioner is required to review the treatment and pain clinic guidelines by September 30 of each year and shall make such guidelines available on DOH's website. The recommended treatment guidelines and pain clinic guidelines are required to be submitted to each prescribing board that licenses health professionals who can legally prescribe controlled substances, and each board must review and determine how such guidelines should be utilized by the board's licensees. Each board must notify all of its licensees through routine bulletins or newsletters of the existence of the guidelines and standards. Such treatment guidelines and pain clinic standards shall not apply to veterinarians. This legislation has an effective date of July 1, 2015.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- Current rules of the Division of Pain Management Clinics defines a "certificate holder" as a person who holds a certificate for a pain management clinic and is the sole owner or one of the owners of the clinic.
- The definition of certificate holder, as provided in this legislation, prevents chiropractors and out-of-state physicians from the ability to become certificate holders.

- According to the Department of Health (DOH) website, there are over 500 pain management clinics registered within the state.
- Based on information provided by DOH, there are currently 4 active pain management certificates held solely by chiropractors, and 10 clinics that have at least partial out-of-state ownership.
- This legislation requires all owners of a pain management clinic be eligible to be a certificate holder; therefore, all owners must either be a licensed medical doctor, osteopathic physician, advanced practice nurse, or physician assistant who practices in this state with an unrestricted, unencumbered license and meets all other requirements of this legislation.
- Each of these 14 pain management clinics will be required, by July 1, 2015, to ensure that each owner is eligible to be a qualified certificate holder. It is assumed that these pain clinics will work to ensure that each owner is eligible to be a qualified certificate holder for the purpose of complying with this legislation.
- This legislation does not create or change any existing fees relative to pain management clinics.
- DOH can make any changes to existing Division Rules during regular work hours, without additional cost.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Jeffrey L. Spalding, Executive Director

/jdb